THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION Nos.10436 and 10410 of 1999

Dated : 13.06.2007

WRIT PETITION No.10436 of 1999:

Between:

T.Doraswamy Naidu S/o T.Venkatarama Naidu
18-1-504 F, Mosque Road,
Tiurpathi, Chittoor District and others.

..... PETITIONERS

AND

Government of A.P Revenue (Endowments -III)Department,
Rep by Principal Secretary to Govt.,
Secretariat, Hyderabad and others.

.....RESPONDENTS

And

WRIT PETITION No10410 of 1999:

Between:

V.Muniratnam s/o V. Venkatamuni Chetty
r/o H.No.238, Prakasham Road ,
Tirupathi , Chittoor Dist .

..... PETITIONER

AND

Govt. of A.P rep by prl. Secretary to Govt.
Revenue (Endowments - III) department , Secretariat ,
Hyderabad and others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION Nos.10436 and 10410 of 1999

COMMON ORDER:

Since the point involved in these writ petitions are same, they are being disposed of by this common order.

Petitioners filed these writ petitions seeking to quash the notifications issued under Section 4(1) of the Land Acquisition Act, 1894 (for short "the Act") and the consequential draft declaration issued under Section 6 of the Act, which was published in the Andhra Pradesh State Gazette dated 28.04.1997, whereunder, the land and buildings of the petitioners situated at Mosque road, Tirupati in Chittoor District were proposed to be acquired for the purpose of widening the road.

The facts, succinctly, are as follows. Pursuant to the requisition of the Executive Officer of the Tirumala Tirupati Devasthanam-fourth respondent herein, the Land Acquisition Officer, after getting necessary approval on 13.11.1996, issued a notification under Section 4(1) of the Act, which was published on 16.11.1996, proposing to acquire the land and building of the petitioners situated at Mosque road, Tirupati, for the purpose of widening the road. The same was published in the local newspapers and also in the locality. Thereafter, enquiry under Section 5-A of the Act was conducted and the draft declaration under Section 6 of the Act was published in the Gazette on 28.04.1997, which was also published in the locality on 01.05.1997 and in local newspapers on 24.05.1997 and 25.05.1997. Subsequently, notices under Section 9(3) of the Act were issued to the petitioners asking them to appear for enquiry on 24.04.1999. Petitioners alleged to have filed objections, but the same were negatived by the third respondent. It is their case that as the award under Section 11-A of the Act was not passed within a period of two years from the date of the draft declaration issued under Section 6 of the Act, entire proceedings initiated under the Act get lapsed. Hence, they filed the instant writ petitions assailing the notification under Section 4(1) of the Act and the consequential proceedings issued under the Act.

Detailed counters are filed by the third respondent. In the counters, while denying various allegations made by the petitioners, it is stated that one Smt.Subbayamma, whose land and building also was sought to be acquired, filed W.P.No.9834 of 1999 before this Court and this Court granted interim order on 30.04.1999 directing the parties to maintain status quo, and in that view of the matter, the award as contemplated under Section 11-A of the could not be passed.

Heard the learned counsel for the petitioners and the learned Government Pleader for Land Acquisition.

The bone of contentions, according to Sri O.Manohar Reddy, learned counsel for the petitioners, is that the award was not passed within two years from the date of the draft declaration issued under Section 6 of the Act and hence, entire proceedings initiated under the Act are liable to be quashed.

I am unable to appreciate the said contention. Evidently, the draft declaration was published on 28.04.1997 and the same was published in the locality on 01.05.1997 and in Andhra Jyothi and Praja Sakthi on 24.05.1997 and 25.05.1997, respectively. No doubt, Section 11-A of the Act requires the Land Acquisition Officer to pass an award within a period of two years from the date of publication of the draft declaration and if the award is not passed within the said period, entire acquisition proceedings get lapsed. However, this Court, in similar matters, interpreted that the last date of the declaration has to be taken into account for calculating the period of two years. If so, the last date of publication in the instant case is 25.05.1997 and the award should have been passed on or before 24.05.1999. Admittedly, no award is passed in this case and the explanation offered by the respondent is that by virtue of the interim order dated 30.04.1999 passed by this Court in W.P.No.9834 of 1999, award could not be passed. In the explanation appended to Section 11-A of the Act it is clearly stated that in computing the period of two years referred to in this section, the period during which

any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a court, shall be excluded. Evidently, in the light of the interim order passed by this Court on 30.04.1999 in W.P.No.9834 of 1999, the award in this case could not be passed. Hence, the contention of the learned counsel for the petitioners that the award under Section 11-A of the Act was not passed within two years, the enquire acquisition proceedings get lapsed, cannot be countenanced.

For the foregoing discussion, I see no merits in these writ petitions and they are accordingly dismissed. There shall be no order as to costs.

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13.06.2007

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